

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4830 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RASIKLAL RAMAJIBHAI ZAVERI

Versus

DIRECTOR OF EDUCATION

Appearance:

MS SEJAL SUTARIA for Petitioner
MR HL JANI for Respondent No.1 & 2
None present for Respondent No.3
MS MAMTA VYAS for Respondent No.4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/11/97

ORAL JUDGMENT

#. The petitioner, an employee of respondent No.4 and who has retired on 31st May 1982, filed this Special Civil Application and prayers have been made for directions to the respondents to pay him difference of pay scale from 1.1.73 to 31.12.77 and for further direction to respondents to pay difference of pay scale

in the cadre of librarian from 6.12.78 to 31.5.82. Further prayer has been made for direction to the respondents to treat his services as full time from 1962 to 1965 and accordingly fix his pension.

#. So far as the last prayer is concerned it cannot be granted as the petitioner cannot be permitted to agitate stale claim. This grievance pertains to the year 1962 to 1965 and this Special Civil Application has been filed in the year 1988, i.e. after more than 23 years. The respondents No.1 and 2 have not filed any reply to the Special Civil Application. The respondent No.4 has filed reply to the Special Civil Application in which it has been admitted that the petitioner was discharging duties as a librarian but none of the parties are able to produce on record of this Special Civil Application as well as otherwise to satisfy this Court as to whether the petitioner has been absorbed in the respondent No.4 school on the post of librarian or not. The learned counsel for respondent No.4 contended that the petitioner was not entitled for the pay scale of librarian as he was not possessing requisite qualifications prescribed for the said post. These are the questions of fact and I fail to see any justification in the action of the petitioner to directly approach this Court. Instead of approaching this Court directly, the petitioner should have first approached the respondent No.1 and only in case the respondent No.1 has decided the matter against him or sit over the matter for a long time, then only there would have been some justification in approaching this Court. In view of this fact, interest of justice will be met in case this petition is disposed of with directions that the petitioner may submit a representation in respect of his grievances, other than the grievance of claiming continuity of services from 1962 to 1965, to the Director of Education, Government of Gujarat, Sachivalaya, Gandhinagar, within a period of one month from the date of receipt of copy of this order and in case such representation is made by petitioner, then the said officer will decide the same within a period of three months from the date of receipt of the same. If the petitioner prays, he may be given opportunity of personal hearing also. In case the grievances of the petitioner are accepted, then all the consequential benefits be given to the petitioner within a period of next two months. Where the grievances of the petitioner are not accepted, the said officer may pass a reasoned order and a copy of the same may be sent to the petitioner by registered post A.D. Liberty to the petitioner for revival of this Special Civil Application in case of difficulty. The writ petition and Rule stand

disposed of accordingly with no order as to costs.

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(sunil)